IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Mat.Appeal.No. 212 of 2006()

OP.101/2003 of FAMILY COURT, KANNUR
.....

PETITIONER: APPELLANT/RESPONDENT

T.RAMESHAN, S/O.KUNHIRAMAN,
AGED 36 YEARS, SPINNING MILL EMPLOYEE,
C/O.CHATHU MASTER, THEKEDAVAN HOUSE,
ELAMBACHI, THRIKARIPUR SOUTH.P.O,
KASARAGOD.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: PETITIONER
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1. K.V.PREETHA,
D/O.KRISHNAN, AGED 26 YEARS,
RESIDING AT KONHAMARE VEETTIL,
THEKKUMBAD.P.O, CHERUKUNNU VIA.,
KANNUR.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.P.M.PAREETH
GOVERNMENT PLEADER SMT.K.R.DEEPA.

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

Mat. Appeal No.212 of 2006

Dated 20th March, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment dated 31.8.2004 in O.P.No.101/03, on the file of the Family Court, Kannur. A decree of divorce was granted by the Family Court on the ground of cruelty. According to the appellant, though he had filed a counter affidavit, he could not prosecute the case since he had to leave for Gulf countries in pursuit of a job. Further contention is that the essential ingredients of cruelty are not established and hence the Family Court erred in granting the decree. The matter was posted on several occasions for hearing and we had the opportunity to listen to the vehement contentions taken by both the parties. During the course of hearing, it has come out that the first respondent wife intends to have re-marriage shortly. The appellant also does not want the company of the first respondent. In fact, a suggestion was made that a joint application under Section 13B of the Hindu Marriage Act could be filed. Thus, there are no two minds as to the ultimate outcome of the relationship between the parties. The dispute is

only on the mode of achieving the end. Apparently the apprehension is that since the divorce is granted on the ground of cruelty, it might have adverse consequences on the appellant. Learned counsel for the respondent wife submits that she does not intend to pursue the matter any further for any purposes. She will not claim maintenance or she will not claim anything out of the marital relationship which has been dissolved, it is submitted. In that view of the matter, it is immaterial for the appellant as to whether the divorce is granted on the ground of cruelty or not, particularly since he also intends to have the marriage dissolved by a decree of divorce. In the above circumstances, we do not find it necessary to interfere with the judgment and decree of the Family Court under appeal. The appeal is accordingly dismissed.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.